

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DONALD LEE KISSNER,

Plaintiff,

v.

Case No. 20-cv-13445
Honorable Linda V. Parker

JOSEPH MICHAEL ORR,
LUKE ROGERS, UNKNOWN
DISPATCH OFFICER,
and JEREMY ZARSKI,

Defendants.

**OPINION AND ORDER SUA SPONTE DISMISSING PLAINTIFF'S
CLAIMS AGAINST DEFENDANT UNKNOWN DISPATCH OFFICER**

This matter is on remand after the Sixth Circuit Court of Appeals found that Plaintiff intended to name an unknown Shiawassee County dispatch officer as a defendant in this civil rights action pursuant to 42 U.S.C. § 1983. *Kissner v. Orr*, No. 22-2076, 2023 WL 5687037, at *1, 4 (6th Cir. Aug. 31, 2023). This Court previously dismissed Plaintiff's claims against the remaining defendants. (*See* ECF Nos. 27, 37.) On April 15, 2024, the Court issued an order requiring Plaintiff to show cause within twenty-one (21) days as to why his claims against the dispatch officer should not be dismissed pursuant to 28 U.S.C. §§ 1915(e)(2) and 1915A(b) for the reasons discussed in that decision. (ECF No. 51.) The deadline

for Plaintiff to respond to the show cause order has expired. Plaintiff has neither responded in writing or otherwise.

As discussed in the April 15 decision, Plaintiff has been granted leave to proceed in this action without prepayment of fees or costs pursuant to 28 U.S.C. § 1915(a)(1). (*See* ECF No. 7.) District courts must dismiss an action brought under federal law in forma pauperis if the complaint is frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief from a defendant immune from such relief. 28 U.S.C. §§ 1915(e)(2), 1915A(b). Plaintiff's claim(s) against the unknown dispatch officer are subject to dismissal under these statutes. As also discussed in the April 15 decision, the facts alleged in Plaintiff's Complaint fail to satisfy the elements of a deliberate indifference claim against the dispatch officer and any negligence claim would be barred by governmental immunity.

Accordingly,

IT IS ORDERED that Plaintiff's claims against Defendant Unknown Dispatch Officer are **DISMISSED WITH PREJUDICE**.

s/ Linda V. Parker
LINDA V. PARKER
U.S. DISTRICT JUDGE

Dated: May 16, 2024

I hereby certify that a copy of the foregoing document was mailed to counsel of record and/or pro se parties on this date, May 16, 2024, by electronic and/or U.S. First Class mail.

s/Aaron Flanigan

Case Manager